

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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|----------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | CRIMINAL ACTION NO. |
| v. |) | 2:19cr462-MHT |
| |) | (WO) |
| RICHARD O'NEIL HUGHES, JR. |) | |

OPINION AND ORDER

This case is before the court on the motion to continue trial filed by defendant Richard O'Neil Hughes, Jr. For the reasons set forth below, the court finds that jury trial, now set for January 4, 2021, should be continued pursuant to 18 U.S.C. § 3161(h) (7) (A) .

While the granting of a continuance is left to the sound discretion of the trial judge, *see United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c) (1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h) (7) (A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h) (7) (B) (i), or "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h) (7) (B) (iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Hughes in a speedy trial.

Hughes represents that the parties are negotiating a possible resolution of the case but additional time is needed to do so. A continuance is warranted to allow the parties to continue these efforts. Also, the government does not oppose a continuance.

Accordingly, it is ORDERED as follows:

(1) The motion to continue (doc. no. 22), filed by defendant Richard O'Neil Hughes, Jr., is granted.

(2) The jury selection and trial for defendant Hughes, now set for January 4, 2021, are reset to March 15, 2021, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

The United States Magistrate Judge shall reset pretrial deadlines as necessary and conduct a pretrial conference prior to the new trial term.

DONE, this the 8th day of December, 2020.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE